

ERIC WALDO 12/22/2022

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF LOUISIANA
3 MONROE DIVISION

4 THE STATE OF MISSOURI, et al.,

5 Plaintiffs,

6 vs. Case No.
7 3:22-cv-01213-TAD-KDM
JOSEPH R. BIDEN, JR., et al.,

8 Defendants.

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14 VIDEORECORDED VIDEOCONFERENCED DEPOSITION
15 OF ERIC WALDO
DECEMBER 22, 2022

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<p>1 that they're introducing a new policy that 2 prohibits content that includes harmful 3 misinformation about the safety, efficacy, and 4 ingredients for the vaccines, right?</p> <p>5 A. Yes, that's what the e-mail says.</p> <p>6 Q. Is this an unsolicited e-mail or are 7 they responding to some kind of communication or 8 request from you guys, do you know?</p> <p>9 A. I'm not positive, but it would appear 10 to be an unsolicited e-mail.</p> <p>11 Q. I know that you had said earlier that 12 you reached out to Facebook, Twitter, and YouTube 13 in the aftermath of the health advisory that -- 14 to -- to see what steps they were taking. Is that 15 response to that request for information?</p> <p>16 A. Could be. I'm not certain, to be 17 honest with you. But based on both my departure -- 18 and I think I had had an out-of-office at this 19 moment, which may have led them to add Nancy. 20 Nancy was also just coming on, and I don't think 21 her HHS e-mail had been set up yet, but I'm not -- 22 I'm not positive.</p> <p>23 Q. Let's look at Exhibit 32. Can you 24 see this one on screen share?</p> <p>25 A. Yes, I see this note.</p>	<p>1 going to face and discuss what you-all are planning 2 as we move into the next phase, right?</p> <p>3 A. Yes, that's what Rob has written to 4 -- to Brian.</p> <p>5 Q. And Rob says: We remain concerned 6 about mis- and disinformation on feed and in 7 groups, and the wide reach of hesitancy inducing 8 content across your platform, right?</p> <p>9 A. Yes, that's what Rob has written to 10 Brian.</p> <p>11 Q. And he says: With that said, we hope 12 as ever that this will be a productive and 13 forward-looking conversation, right?</p> <p>14 A. Correct, that is what Brian has -- or 15 what Rob has written to Brian.</p> <p>16 Q. So Rob's asking for a meeting where 17 one of the concerns he wants to talk about is mis- 18 and disinformation on feed and in groups on 19 Facebook's platforms, right?</p> <p>20 A. I'm not sure. He definitely says 21 there that he's concerned about it. But in 22 general, it seems like the subject is they want to 23 talk about headwinds. They're concerned about 24 misinformation and they want to have a productive 25 conversation about how to help on -- I think</p>
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<p>1 Q. Do you remember, Rob Flaherty copies 2 you on this, the initial e-mail, to Brian Rice of 3 Facebook. Do you remember being copied on this? I 4 think you -- I think you may have said you were out 5 for 30 days. Looks like you're probably just back 6 from paternity leave, your first stint of paternity 7 leave. Do you remember this?</p> <p>8 A. Yeah, I was probably just back. As 9 I'm looking at it -- hold on. I do recall that 10 for -- for vaccines for -- for kids, Kristina 11 Schake and others were leading the outreach.</p> <p>12 Q. Kristina Schake, is she in the Office 13 of Surgeon General or Office for HHS?</p> <p>14 A. No, she was elsewhere in HHS.</p> <p>15 Q. Okay. And Rob here, I think, 16 initiates this and asks for a meeting with 17 Facebook, right?</p> <p>18 A. Yes, I think to discuss outreach for 19 kids' vaccines.</p> <p>20 Q. Yeah, 5 to 11 vaccine is the 21 authorization for children ages 5 to 11, right?</p> <p>22 A. That's correct, and -- vaccines for 23 -- for young people ages 5 to 11.</p> <p>24 Q. And he says: We'd like to talk about 25 what we're seeing as the biggest headwinds we're</p>	<p>1 probably share what the admin's plans are for the 5 2 to 11 rollout.</p> <p>3 Q. And their concerns include mis- and 4 disinformation on feed and in groups, correct?</p> <p>5 A. That is what Brian has -- says in his 6 e-mail.</p> <p>7 Q. Rob, right? Not Brian?</p> <p>8 A. Sorry, sorry. That's what Rob has 9 written to Brian.</p> <p>10 Q. Yeah, and then he's -- another 11 concern is the wide reach of hesitancy-inducing 12 content across your platform, right?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know, did this meeting 15 occur --</p> <p>16 A. I'm not certain.</p> <p>17 Q. -- because Rob says -- Thanks, Rob, 18 we welcome the opportunity and adding Felicia on 19 our end to help coordinate, right?</p> <p>20 A. Yeah, I'm guessing.</p> <p>21 Q. Did this meeting occur?</p> <p>22 A. I'm not certain. Probably. If they 23 added schedulers, usually those meetings happen.</p> <p>24 Q. Were you included in the meeting? I 25 mean, you're on the list of recipients. Were you</p>

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<p>1 included in that meeting, do you recall?</p> <p>2 A. I don't recall.</p> <p>3 Q. How about at -- your colleague at</p> <p>4 HHS, Kristina Schake?</p> <p>5 A. Kristina was likely on that call.</p> <p>6 Q. But you don't -- you don't know if</p> <p>7 you were. Was anyone else in the Office of Surgeon</p> <p>8 General on that call?</p> <p>9 A. So Kristina Schake ran -- ran the</p> <p>10 public engagement campaign for vaccines at HHS, so</p> <p>11 that was -- we sort of took our marching orders on</p> <p>12 some of those, like, public-facing pieces from</p> <p>13 Kristina, so she would have led, and then possibly</p> <p>14 looped in Alex Phillips, our communications</p> <p>15 director, based on what they wanted us to do to</p> <p>16 help -- help roll out the -- the vaccine.</p> <p>17 Q. Okay. Do you have any understanding</p> <p>18 of what was discussed in this meeting?</p> <p>19 A. I don't recall. I don't recall if I</p> <p>20 was on the -- the call or -- or what would have</p> <p>21 been discussed.</p> <p>22 Q. So you may have been on the call, but</p> <p>23 you're not sure?</p> <p>24 A. It's possible. I may have been on</p> <p>25 it. I -- around this time, we ended up doing, for</p>	<p>1 stated clearly that tech platforms have a</p> <p>2 responsibility to improve our health information</p> <p>3 echo system.</p> <p>4 Right?</p> <p>5 A. Yes, that is what Dr. Murthy tweets.</p> <p>6 Q. And then he's got a several-tweet</p> <p>7 thread on this, at the bottom, which he says: We</p> <p>8 must demand Facebook and the rest of the social</p> <p>9 media ecosystem take responsibility for stopping</p> <p>10 health misinformation on their platforms. The time</p> <p>11 for excuses and half-measures is long past. We</p> <p>12 need transparency and accountability now. The</p> <p>13 health of our country is at stake.</p> <p>14 Correct?</p> <p>15 Q. That's correct.</p> <p>16 A. That's what Dr. Murthy has tweeted.</p> <p>17 Q. Were you involved in crafting these</p> <p>18 tweets for Dr. Murthy?</p> <p>19 A. I was involved in reviewing them. I</p> <p>20 think there was a deliberation between the</p> <p>21 communications team and Dr. Murthy about what the</p> <p>22 content would be of this Twitter thread.</p> <p>23 Q. And were you involved in formulating</p> <p>24 the content?</p> <p>25 A. I -- I looked at different drafts and</p>
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<p>1 the rollout, an event with Dr. Biden, so I remember</p> <p>2 that was sort of how we were engaging with the</p> <p>3 White House on the kids' vaccine rollout.</p> <p>4 Q. Let's look at Exhibit 33. Not long</p> <p>5 after that Wall Street Journal article, there was</p> <p>6 another Washington Post article criticizing</p> <p>7 Facebook for misinformation, right? Do you</p> <p>8 remember that?</p> <p>9 A. I think -- is that the Frances</p> <p>10 Haugen, the leaker op ed, or no.</p> <p>11 Q. I believe it had to do with Frances</p> <p>12 Haugen.</p> <p>13 A. Okay.</p> <p>14 Q. Does that ring a bell?</p> <p>15 A. Yes.</p> <p>16 Q. October 28th of 2021?</p> <p>17 A. Yes, I do recall when the article</p> <p>18 came out about the leaker, yes.</p> <p>19 Q. And Dr. Murthy retweeted the article</p> <p>20 on October 28th saying he was deeply disappointed</p> <p>21 to read this story, right?</p> <p>22 A. Yes, he -- that his -- his tweet</p> <p>23 says: I was deeply disappointed to read this.</p> <p>24 Q. And he refers back to the -- the</p> <p>25 advisory on health misinformation and states: I</p>	<p>1 helped on different drafts, but ultimately, this</p> <p>2 was a -- what Dr. Murthy ended up writing --</p> <p>3 drafting himself.</p> <p>4 Q. Okay. So he was the author of the</p> <p>5 these, principally?</p> <p>6 A. I think, again, as you know, writing</p> <p>7 is a complicated process. I think there was a</p> <p>8 draft from -- a draft from the -- probably -- I</p> <p>9 don't recall, but my guess based on how the office</p> <p>10 tended to work was there would have been a draft</p> <p>11 from the communications team of a tweet thread,</p> <p>12 then there was probably a version control where</p> <p>13 then I maybe made some edits and I had a version,</p> <p>14 and then Dr. Murthy ultimately came in and -- and</p> <p>15 -- and made the final and substantial edits to what</p> <p>16 he wanted there to be from -- from his Twitter</p> <p>17 account.</p> <p>18 Q. Do you have an understanding --</p> <p>19 A. I'm sorry.</p> <p>20 Q. Go ahead.</p> <p>21 A. And I would say, in addition, I likely,</p> <p>22 and I don't recall, someone from the policy team</p> <p>23 would have reviewed the content to ensure the</p> <p>24 integrity of our -- you know, of our scientific</p> <p>25 accuracy.</p>

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From: Brian Rice [REDACTED]
Sent: 10/20/2021 8:55:39 AM
To: Flaherty, Rob R. EOP/WHO [REDACTED]
CC: Clarke.Humphrey [REDACTED]; Tom, Christian L EOP/WHO [REDACTED]
Waldo, Eric (HHS/OASH) [REDACTED]; Rowe, Courtney (who.eop.gov) [REDACTED]
Schake, Kristina (HHS/IOS) [REDACTED]; Qureshi, Hoor A. EOP/WHO [REDACTED]
Subject: Re: Kids Vaccines

Thanks Rob—we'd welcome the opportunity. Adding Felicia on our end to help coordinate.

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From: Flaherty, Rob R. EOP/WHO [REDACTED]
Sent: Tuesday, October 19, 2021 12:30:07 PM
To: Brian Rice [REDACTED]
Cc: Humphrey, Clarke E. EOP/WHO [REDACTED]; Tom, Christian L. EOP/WHO [REDACTED]
[REDACTED]; Waldo, Eric (HHS/OASH) [REDACTED]; Rowe, Courtney M. EOP/WHO [REDACTED]
[REDACTED]; Schake, Kristina (HHS/IOS) [REDACTED]; Qureshi, Hoor A. EOP/WHO [REDACTED]
Subject: Kids Vaccines

Brian – Related to your previous email, thought it might be helpful for us to connect on what the admin's plans are for the 5-11 vaccine roll out. We'd like to talk about what we're seeing as the biggest headwinds we're going to face, and discuss what you all are planning as we move into this next phase. We remain concerned about mis-and-disinformation on feed and in groups, and the wide reach of hesitancy-inducing content across your platform. With that said, we hope - - as ever -- that this will be a productive and forward-looking conversation.

Hoor can help wrangle times on our end, if you've got some times on yours this week or early next.

-Rob

Rob Flaherty
Director of Digital Strategy
The White House
Cell: [REDACTED]